IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 4919 of 2005

Between:

G.R.Rao, E-360803, Conductor, s/o Seetharamanjaneyulu,
r/o Ibrahimpatnam Depot, Vijayawada, Krishna District.

..... PETITIONER

AND

1 The APSRTC rep., by its Regional Manager,

Krishna Region at Vijayawada, Krishna District.
2 The Divisional Manager, Vijayawada (Rural),

o/o R.M.APSRTC, Vijayawada, Krishna District.
3 The Depot Manager, APSRTC, Vijayawada,

Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ of mandamus, or any other appropriate writ, order or direction, declaring the Proc.No.02/227(63)/2000-VJA, dt.3-5-2001, which was modified by the appellate authority vide Proc.No.PA/19(62)/2001-DVM(R), Dt.19-11-2001, which was confirmed by the review authority vide Proc.No.PA/19(77)/2003-RM(K), Vijayawada dt.23-12-2004 is illegal, unjust and arbitrary, contrary to the circular instructions and as such liable to be set aside by consequently directing the respondents herein to restore the deferred increments to the petitioner and to pay the arrears of difference of wages from 3-5-2001 to till date forthwith and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondent Nos.1 to 3: MR.R.MANMADHA REDDY

The Court at the admission stage made the following:

ORDER:

Challenging the proceedings No.02/227(63)/2000-VJA, dated 03.05.2001, issued by the 3rd respondent/Depot Manager, withholding the annual increment of the petitioner, which falls next due, for a period of two years, and also recovering an amount of Rs.4,044/-, towards loss sustained by the Corporation, the present writ petition is filed.

For having failed to collect the reservation amount from Shiridi Agent on 02.07.2000, which resulted in the discrepancy of amount of Rs.4,044/-, thereby caused loss to the revenue of the Corporation, a charge sheet-cum-show cause notice, dated 31.08.2000 was issued, calling explanation from the petitioner. The petitioner gave explanation on 16.10.2000. After conducting enquiry, the Enquiry Officer found that the charges levelled against the delinquent/writ petitioner are proved, and therefore, charge sheet-cum-show cause notice, dated 31.08.2000, has been issued to the petitioner, calling his explanation to show cause as to why an amount of Rs.4,044/- towards loss sustained to the Corporation, should not be recovered from him. Thereafter, the impugned proceedings have been passed, imposing a penalty of withholding his annual increment for a period of two years, which shall have the effect on his future increments and for recovery of Rs.4,044/- from him.

The contention of the learned counsel for the petitioner is that in the show cause notice, there was no mention about the stoppage of increments, and therefore, the impugned proceedings suffers from serious legal infirmities with regard to imposition of punishment is concerned.

The purpose of giving show cause notice to a delinquent is to offer his explanation with regard to the proposed punishment. When there is no proposed punishment indicated in the show cause notice, and without calling for any explanation from the

petitioner with regard to proposed punishment, imposition of punishment, which is not stated in the show cause notice, is clearly contrary to the rules, governing service conditions of the writ petitioner.

Therefore, the impugned proceedings dated 03.05.2001, passed by the 3rd respondent/Depot Manager, as modified by the appellate authority, through proceedings No.PA/19(62)/2001-DVM(R), dated 19.11.2001, are set aside. The matter is remitted to the disciplinary authority, to take appropriate decision, in accordance with law, rules and regulations, after affording reasonable opportunity to the petitioner.

The Writ Petition is, accordingly, allowed. No order as to costs.

Dated: 15.03.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Regional Manager,

APSRTC, Krishna Region,

Vijayawada, Krishna District

2. The Divisional Manager,

Vijayawada (Rural)

O/o.R.M.APSRTC, Vijayawada,

Krishna District

3. The Depot Manager, APSRTC,

Vijayawada, Krishna District

4. Two CD copies

*Form-NIC-OGS/WP{**RS**}*